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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

PP Docket No. 93-253

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SUMMARY

In the Notice the Commission proposed to implement revolutionary changes to its common carrier and private paging regulations in order to promote continued growth and preserve vigorous competition in the paging industry. Mtel generally favors the Commission proposal to transition to a geographic licensing approach where the Commission will issue single licenses for geographic areas that encompass many sites, rather than individual licenses on a transmitter by transmitter basis.

As further refinement to this geographic licensing proposal, Mtel supports the Commission's proposal to award geographic licenses on an MTA basis but Mtel urges that the interference and service contours should continue to be calculated utilizing the existing rules instead of the eight-radial contour method which would result in the reduction of existing service and interference contours.

Mtel endorses the Commission's proposal to exclude from its geographic licensing plan those channels that already have been assigned to single licensees on a nationwide basis under the Commission's existing rules.

Incumbent licensees should not only receive ample protection from new geographic licensees but should also be provided with some type of preference to receive a geographic license in lieu of competitive bidding provided minimum coverage requirements are met.

In addition, Mtel strongly encourages the Commission to redesignate 931.4375 MHz on a nationwide basis. This redesignation will promote regulatory parity, formalize the operational status of the channel and serve the public interest.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

| | | |
|----------------------------------|---|----------------------|
| In the Matter of: |) | |
| |) | |
| Revision of Part 22 and Part 90 |) | WT Docket No. 96-18 |
| of the Commission's Rules to |) | |
| Facilitate Future Development |) | |
| of Paging Systems |) | |
| |) | |
| Implementation of Section 309(j) |) | PP Docket No. 93-253 |
| of the Communications Act -- |) | |
| Competitive Bidding |) | |

**COMMENTS OF
MOBILE TELECOMMUNICATION TECHNOLOGIES CORP.**

Mobile Telecommunication Technologies Corp. ("Mtel")^{1/} and its subsidiary, SkyTel Corporation (collectively, "Mtel"), by their attorneys and pursuant to Section 1.415 of the Commission's rules, respectfully submit their comments in response to the Commission's Notice in the captioned proceeding.^{2/} By these comments Mtel supports generally the Commission's proposal for geographic

^{1/} Mtel and its subsidiaries, including SkyTel and Destineer Corp. ("Destineer"), are Commission licensees providing a wide range of high technology wireless communications services. SkyTel holds a common carrier nationwide paging license and multiple non-network paging licenses operating over frequency 931.4375 MHz on a nationwide basis. Destineer Corp. was awarded a Pioneer's Preference to operate an advanced nationwide wireless network in the narrowband Personal Communication Service ("PCS") and is currently the only nationwide narrowband PCS service provider. Accordingly, Mtel is well positioned to provide the Commission with informed comment in this proceeding.

^{2/} Notice of Proposed Rulemaking, in WT Docket No. 96-18 and PP Docket No. 93-253, 61 Fed. Reg. 6199 (February 16, 1996) ("Notice"). In the Notice, the Commission requested that comments be filed by March 18, 1996, and that reply comments be filed by April 2, 1996. Accordingly, these comments are timely filed.

licensing and urges the Commission to recognize the nationwide geographic character of frequency 931.4375 MHz and treat it accordingly.

I. INTRODUCTORY STATEMENT AND OVERVIEW

In the Notice the Commission proposed to implement revolutionary changes to its common carrier and private radio paging regulations in order to promote continued growth and preserve vigorous competition in the paging industry. The Commission proposes to transition to a geographic licensing approach where the Commission will issue single licenses for specified geographic areas, rather than individual licenses on a transmitter by transmitter basis.^{3/} The Commission seeks comment on whether geographic licenses should be awarded on an MTA basis^{4/} and whether co-channel interference protection should be based on the Commission's existing tables (fixed radius) or instead on the eight-radial contour method which the Commission believes to be more suitable.^{5/} Those channels that already have been assigned to single licensees on a nationwide basis under the Commission's existing rules would not be subject to geographic licensing and an incumbent's existing operation would be protected.

In a matter involving Mtel uniquely, the Commission sought comment on whether to designate the Common Carrier Paging ("CCP")

^{3/} See, Notice at Para. 1.

^{4/} See, Notice at Para. 34.

^{5/} See, Notice at Para. 50.

channel 931.4375 MHz licensed to SkyTel as a nationwide channel and thus not subject to geographic licensing.

The Commission also sought comment on its proposal to adopt competitive bidding rules for mutually exclusive paging applications, so that available channels may be assigned rapidly to applicants who will expedite service to the public.

Mtel generally supports the Commission's proposed geographic licensing plan to adopt geographic licensing. Mtel urges that the interference and service contours should continue to be calculated utilizing existing rules. Incumbent licensees should not only receive ample protection from new geographic licensees but should also be provided with some type of preference to receive a geographic license in lieu of competitive bidding, provided it meets certain coverage requirements as discussed more fully below.

Mtel supports the Commission's proposal to exclude from its geographic licensing plan those channels that already have been assigned to single licensees on a nationwide basis. In addition, Mtel strongly encourages the Commission to redesignate 931.4375 MHz as nationwide. This redesignation will promote regulatory parity, formalize the operational status of the channel and serve the public interest.

Mtel supports the use of competitive bidding for mutually exclusive applications.^{6/} But, Mtel submits that the Commission's proposal should be refined to protect legitimate incumbent paging

^{6/} Another Mtel subsidiary, Destineer Corp. recently paid to the Commission \$15 million for nationwide narrowband spectrum.

operators having extensive investment, operations and coverage from unnecessary problems associated with speculators and other competitors who may wish to block the growth of its system.

For the reasons set forth herein, Mtel submits that the public interest would be served by the Commission's adoption of the proposals set forth in these comments. In support, the following is shown:

II. REVISION OF THE COMMISSION'S RULES TO PROVIDE FOR GEOGRAPHIC LICENSING WOULD SERVE THE PUBLIC INTEREST

The Commission's proposal to implement geographic licensing for CCP and PCP licensees involves several separate and distinct issues. Mtel addresses each of these issues under separate caption.

A. Geographic Licensing Generally Will Serve the Public Interest

Mtel supports the Commission's proposal to utilize geographic licensing for 931 and 929 MHz paging channels generally.^{7/} Geographic licensing will prove to be beneficial to the public and to licensees as it streamlines a licensee's regulatory filing requirements and application processing delays. Further,

^{7/} See, Notice at Para. 24. and at Para. 25 where the Commission noted that licensees would be extended the same flexibility, to the extent feasible, as cellular and PCS licensees in terms of the location, design, construction and modification of their facilities throughout their geographic areas. The use of pre-defined service area boundaries would eliminate the need for licensees to notify the Commission of changes in a system's coverage in their respective geographic area and a geographic licensee also would be able to self-coordinate system modifications within their service areas, i.e., to add, subtract, move, and other wise modify their base station facilities, without prior Commission approval or notification.

geographic licensing will provide licensees with a more defined market area resulting in an enhanced ability to obtain capital based on a greater understanding of its coverage rights as well as provide the capability to spread these capital costs over a larger subscriber base. Mtel's experience has been that its customers continuously request wider coverage areas and geographic licensing will facilitate the further build out of wide area paging systems to meet this demand.

**B. Nationwide Frequencies Should Be
Exempt From Geographic Licensing**

Mtel strongly endorses the Commission's proposal to use geographic licensing for 931 and 929 MHz channels and to exclude from this plan channels that already have been assigned to single licensees on a nationwide basis under our existing rules.^{8/} These authorizations are exclusive and present no opportunity for licensing to others. Moreover, most nationwide licensees have expended enormous capital and technical resources in order to construct their nationwide paging systems and are continually expanding coverage to meet increased customer demand for nationwide service. Application of the geographic licensing concept to nationwide licensees would limit licensees to their existing service areas and all but stop the growth of nationwide paging dead

^{8/} See, Notice at para. 26. The Commission proposes to exclude the three CCP channels (931.8875, 931.9125 and 931.9375 MHz) dedicated for nationwide use and all PCP channels for which licensees have met the construction requirements for nationwide exclusivity as of the adoption date of this Notice.

in its tracks.^{9/} Nationwide paging service is a vibrant service and the Commission should not impede the continued vitality of nationwide paging by applying any impediments such as geographic licensing on nationwide services.

**C. MTA's Would Form A Suitable
Geographic Licensing Area**

In determining the geographic service area to be licensed, the Commission tentatively concluded that MTAs form the most appropriate geographic area boundaries for paging systems.^{10/} Mtel agrees with this position. MTAs are centered around large population centers and are large enough to allow licensees to construct wide area systems while small enough to allow numerous opportunities for carriers to obtain licenses.

**D. Protection of Incumbents
Under Geographic Licensing**

The Commission sought comment on its tentative conclusions regarding the potential impact of geographic licensing on incumbent service providers.^{11/} Mtel concurs with the Commission that, at the very minimum, incumbent licensees should be allowed to continue

^{9/} Mtel submits that nationwide service by its very nature requires unrestricted expansion ability.

^{10/} See, Notice at para. 34. The Commission chose MTAs because they are economically defined regions that appear to best mirror the size and development of existing paging systems.

^{11/} See, Notice at para. 37 where the Commission concluded that the public interest would best be served by allowing all incumbent paging licensees either (1) to continue operating under existing authorizations or (2) to trade in their site-specific licenses for a single system wide license demarcated by the aggregate of the service contours around each of the incumbent's contiguous sites operating on the same channel.

to operate under their existing site-specific authorizations or a single system-wide license, and geographic licensees would be required to provide protection to all co-channel systems that are constructed and operating within their service areas. Likewise, Mtel agrees with the provision that incumbent licensees would not be permitted to expand their interference contours without the consent of the geographic licensee but would be able to make modifications or add facilities to optimize internal coverage.

E. Geographic Licensee's Should Meet Minimum Coverage Requirements

Mtel supports the Commission's proposals to require minimum coverage requirements which parallel those of Part 24 narrowband PCS licenses as a condition to receiving a geographic license.^{12/} Further geographic licensees should be directly responsible for meeting these coverage requirements.

F. The Method of Calculating Existing Interference and Service Contours Should Not Be Modified

The Commission proposes replacing the existing definition of service and interference contours for 929 MHz and 931 MHz paging facilities based on circles and standard radii with a mathematical formula that generates an eight cardinal contour.^{13/} Mtel urges

^{12/} See, Notice at para. 40 where the Commission noted that it has previously implemented minimum coverage requirements to ensure that spectrum is used effectively and service is implemented promptly.

^{13/} See, Notice at para. 50. The Commission tentatively concluded that the eight-radial contour method "may be preferable to a fixed radius method, because it will more reasonably predict
(continued...)"

that the proposal be retracted because it would have the unintended effect of reducing the size of both service and interference contours of most existing and proposed 931 MHz paging stations.

The service and interfering contours for operation of 931 MHz paging transmitters are currently determined from FCC Rule Sections 22.537(e) & (f)^{14/} and the design of all existing 931 MHz systems have been engineered according to these standards. Although both methods are relatively easy to use, implementation of the proposed FCC formula would invalidate the existing engineering. Suffice to say that besides the lost cost of the initial engineering, licensees would suffer extreme financial burdens in preparing new engineering for the redesign of their systems without any apparent need to do so. Licensees would also face the shrinkage of the geographic area protected by the existing interference contour rules.^{15/}

Although the eight-radial method may be more accurate because it considers terrain features, the results are inequitable to both

^{13/} (...continued)

potential interference to incumbents and provide geographic licensees with greater flexibility in placing their facilities."

^{14/} Tables E-1 and E-2 of those sections determine the service and interfering contours.

^{15/} Another effect would be to give the proposed geographic licensees new vacant service areas (i.e. gaps between co-channel stations) created by the use of the new formulas. This will cause discontinuity in the existing service and interfering areas of current licensees, and will affect now-pending proposals which were designed based upon the current rules.

incumbents and applicants. Mtel urges the Commission to abandon its "eight-radial contour method" proposal and consistent with the existing interference tables, treat all 929 and 931 MHz transmitters as having service contours of 20 miles and interference contours of 70 miles.

III. REDESIGNATING 931.4375 MHZ ON A NATIONWIDE BASIS WILL FACILITATE REGULATORY PARITY

As the Commission is well aware, SkyTel operates frequency 931.4375 MHz in concert with its network paging frequency (931.9375 MHz) to provide high quality nationwide paging service.^{16/} Grant of the Commission's proposal to redesignate channel 931.4375 MHz on a nationwide basis would promote the Commission's goal of creating regulatory parity among CCP and PCP service providers and would facilitate the creation of a level playing field for carriers licensed in the different services.

Long ago, the Commission recognized SkyTel's unique use of this frequency and has accorded it one key privilege of nationwide status by preempting state regulation of SkyTel's nationwide use of this frequency.^{17/} There is no question but that SkyTel's

^{16/} See Mobile Telecommunication Technologies Corp., 6 FCC Rcd 1938, recon. 7 FCC Rcd 4061 (1992) ("Mtel"). See also In re Amendment of Sections 22.505 and 22.506 of the Commission's Rules, 8 FCC Rcd 2796 (1993) (the "Height/Power Notice").

^{17/} In the Mtel decision, 7 FCC Rcd 4061, the Commission upheld the Common Carrier Bureau's previous determination that the Commission's rules do not limit the use of 931.4375 MHz and that Mtel could use the frequency for nationwide paging service without requesting a waiver of the Commission's rules or submitting a petition for rulemaking. Further, the
(continued...)

situation is unique, in that it is the only entity that is exclusively licensed for a non-network frequency^{18/} and is already licensed to operate in all major markets, as well as many small and medium-sized ones, on this frequency. Indeed, at the present, there is no licensing to any other entity on frequency 931.4375 MHz anywhere in the country and none should be warranted in the future.

As SkyTel continues to augment its system, it will either add sites in existing markets (where SkyTel's presence already precludes other carriers from applying) or expand into smaller markets where other carriers have numerous frequencies from which to choose. Neither of these expansion modes presents any legitimate risk of co-channel interference. Accordingly, reallocation of 931.4375 MHz on a nationwide basis would not adversely impact any other party.

The Commission has granted exclusivity on a local, regional and nationwide basis to PCP licensees operating multi-site systems based on aggregate area covered by their sites.^{19/} SkyTel is

^{17/} (...continued)

Commission preempted state entry, technical and rate regulation of Mtel's integration of proposed nationwide and multi-state wide-area paging service on frequency 931.4375 MHz into its existing nationwide paging network on frequency 931.9375 MHz.

^{18/} SkyTel has filed over five hundred 931.4375 MHz applications and none have been challenged in any way.

^{19/} The Commission decided that in order to obtain nationwide exclusivity a system must consist of at least 300 transmitters, provide service to 50 markets, including 25 of
(continued...)

currently licensed to operate over 700 transmitters over the frequency 931.4375 MHz in over two hundred of the nation's largest markets which is far more than necessary to qualify SkyTel for nationwide exclusivity on 931.4375 MHz if it were a PCP channel. PCP licensees with nationwide exclusivity are now free to design and construct their systems on their assigned frequencies without concern that other applications could be filed thus frustrating their plans for enhancement and growth of their systems. Yet, absent the Commission implementing its proposal to redesignate 931.4375 MHz on a nationwide basis, SkyTel would be at an enormous competitive disadvantage to its PCP competitors in that it would not be permitted to expand its system.

IV. CONCLUSION

The Commission is taking great strides to assure that paging spectrum is being effectively utilized and to reduce the regulatory burdens on paging licensees and the Commission. Mtel compliments the Commission for undertaking this rulemaking proceeding which will greatly streamline the paging application filing process and provide for greater regulatory parity. Mtel encourages the Commission to modify its geographic licensing proposals and competitive bidding proposals consistent with Mtel's comments above

^{19/} (...continued)

the top 50 markets, and serve at least two markets in each of the seven regions modelled on the RBOC regions. See PCP Exclusivity Order in PR Docket No. 93-35, 8 FCC Rcd 8318 (1993).

to afford greater protection to incumbent licensees and provide increased flexibility in the continuing build out of wide area systems.

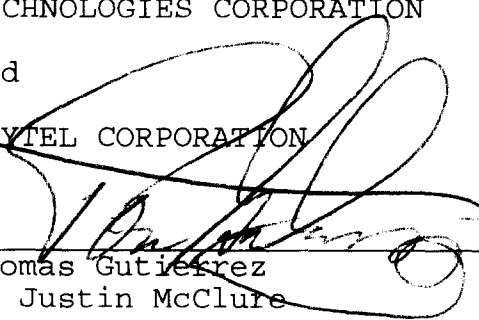
The redesignation of 931.4375 MHz on a nationwide basis would serve the public interest. It would recognize the actual operational status of this frequency, and would be consistent with Commission policy. Thus, it will contribute to the more efficient use of the Commission's resources and serve the public interest.

Respectfully submitted,

MOBILE TELECOMMUNICATION
TECHNOLOGIES CORPORATION

and

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